

HON. DANIEL BARNARD

A MEMORIAL ADDRESS BY

HON. HENRY ROBINSON,

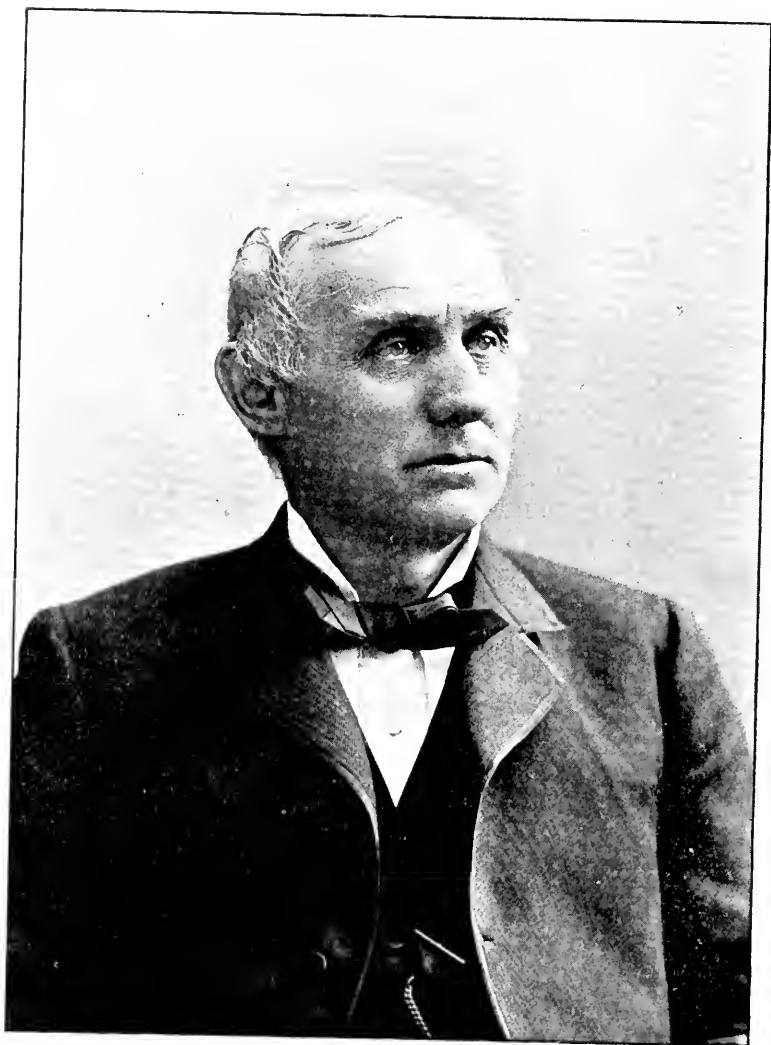
OF CONCORD, N. H.

DELIVERED BEFORE

THE GRAFTON AND COOS BAR ASSOCIATION.

JANUARY 29, 1892.

PRINTED AT COOFS STEAM-PRINTING WORKS, GRAFTON, N. H.



Yours truly
J. W. Barnard

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*Mr. President, and Gentlemen of the Grafton and Coos
Bar Association:—*

There is no defence when Death is claimant. Then, no demurrer prevails, no bill of exceptions is allowed, no points remain upon which to move for a review. All objections are overruled. The judgment is absolute, irrevocable. When the final process-server appears, even sheriffs succumb, and trial lawyers who have seemed almost invincible, yield graciously as a helpless child to the universal judgment against humankind, a judgment that cannot be vacated or avoided, a judgment the execution of which can be satisfied only with the whole debt of life. Jurists the ablest, and counsellors whose experience is the longest, whose advice is the best, are utterly powerless to meet the dread emergency of such a case.

Not many years ago gathered at the Merrimack county bar a group of very superior men. It was pronounced the ablest and best association of lawyers in the State, and was unexcelled anywhere in New England.

Ira Perley, that great genius of legal acumen, was there. He was one of the brightest intellects of his day. Henry A. Bellows, generous-hearted as he was learned, with a beautiful character that lit his face as with sunshine, was counted in its remarkable membership. He could have been

as eminent in the pulpit as he was at the bar, and his life as a lawyer, a judge, and a chief-justice was as pure and noble as it could possibly have been in the most exalted ministry. Josiah Minot, keen, deep, retiring, but ready with resources, and girded with the faculty of success, made one of that illustrious circle. Jonathan E. Sargent, ripe with experience at the bar and on the bench, with a mind stored with legal lore, was one of the central figures. Asa Fowler, a comprehensive scholar, an apt technical draughtsman, and an erudite counsellor, also stood in the fore-front of his profession. The venerable George W. Nesmith, whose integrity and impartiality became proverbial, was one of the gems in that brilliant crown of manly strength and possibility. There was no companion more charming, no friend more hospitable, no attorney more persistent, no citizen of social instincts with more sparkling and infatuating conversational powers than Anson S. Marshall. Grand old Mason W. Tappan was there, rough and yet susceptible as a child, deep read in literature, and with a wonderful knowledge of human nature; he was an earnest advocate, one of the most effective that ever graced the state. Perhaps the most active and indomitable element in that magnificent assembly was John H. George, who made his client's cause his own, and characterized every undertaking with the force, energy and unflinching courage of his own imperious nature. Noble John Y. Mugridge was there, public-spirited, buoyant, the especial champion of younger men, one of the best all-round lawyers that ever entered a court-room. Austin F. Pike sat with the others, deep thinker, skillful lawyer, general student, and a wide reader, and, besides, there was Charles P. Sanborn, with his clear, calm, logical mind, his easy, popular manner; A. F. L. Norris, persevering, industrious, a pioneer in judicial knowledge, a veteran in forensic experience, whose goodly fame

only half equalled his merits ; William T. Norris, painstaking, careful, sincere, and beloved ; Charles C. Lund, versatile, scientific and valuable in different branches of usefulness ; John M. Shirley, with a memory replete with precedent, a cultured taste, and a piquant wit and sparkling originality which made him a potent force in affairs ; Hamilton E. Perkins, genial, polite, with a prepossessing suavity of speech, and an equanimity of temper that won him friends everywhere ; William W. Flanders, in whom the elements were gently mixed, honest, faithful, tolerant, diligent ; Nehemiah Butler, the embodiment of stability, prudence and faithful adherence to duty ; Aaron Whittemore, Jr., young, handsome, held in uncommon esteem, and with every element favorable to the best success ; Arthur Fletcher, with fine business qualifications, splendid mental force, and wonderful tenacity of purpose ; Warren Clark, amiable, trustworthy, upright, whose crown of glory was the eminent good sense that pervaded his whole career.

We buried another, William M. Barnard, a beautiful young man, whom we all loved. Early in life he showed an especial adaptation to the legal profession, but hardly had he entered upon a practice of surprising success and promise when he was called behind the veil of mystery. As we paid tribute to him in the court-room, his father walked backward and forward in front of the building, unable to bear the tender allusions to his partner in business, his own son, whom he loved so fondly, and in whom were clustered such fond hopes. And now that indulgent father himself who sacrificed so much and strove so hard to bring up aright and educate his children, unshrinking has passed, as Ingersoll said of Conkling, "beyond our horizon, beyond the twilight's purple hills, beyond the reach of human harm or help,

to that vast realm of silence or joy, where the innumerable dwell."

These departed lawyers were the Websters, the Sullivans, the Bells, the Woodburys, the Jeremiah Smiths, the Ichabod Bartletts of our day and generation, and worthy successors they were indeed of those illustrious founders of our jurisprudence. They were roundly equipped in intellectual attainment: they were beacons in our social fabric, promoters of reform, friends of education, framers of legislation, encouragers of industrial enterprise, leaders in politics, busy men of affairs, mainstays of the community, important factors in the world's progress, but, one by one (I have not named them in the order of their departure) they receded from our sight to be gathered to their fathers, to become mere clods which the rude swain might turn with his share and tread upon, or wiser than kings. Able and upright indeed should be those who wear their mantle of honor, who have donned the armor of their responsibility.

There was among them no gentler spirit, no clearer intellect, no lawyer more efficient and serviceable, no worker more faithful, no man more loveable than Daniel Barnard. Let us believe that he has awakened "like a child in the daylight's gleam." His character requires no glowing setting; he was a true gem. It is not necessary to entwine his memory with any wreath of oratory; there is eloquence in his very name. His life is an example of fidelity, industry and usefulness. He was himself a sentiment of cheerfulness wherever he went, of geniality, of good-nature, of hopefulness, yet his was the pathos of genuine sympathy; his atmosphere always that of kindness and courage. As Phillips Brooks said of Abraham Lincoln, "He possessed the greatness of real goodness, and the goodness of real greatness."

His career needs no gilding of words, the principal

events of it are familiar to our people. We stop beside his grave to-day only to express deep regret at his death, and to pay a tribute in simple and sincere language to his work and worth, a tribute that comes spontaneously from the heart. Every grief tears open afresh every other grief, yet, let us not mourn for the dead, but, as Charles Sumner bade us, rejoice in their lives and examples. There was no dross in Daniel Barnard's character; he was pure gold. He left us too recently to be weighed yet in cold thought; it is still too early to analyze his merits; but in the affection of close fellowship we speak of him as we feel toward him, running the innocent risk of overpraise. It is hard to believe that that restless, energetic, magnetic force that we called and knew as Daniel Barnard, is gradually to merge itself with other forces, and in time cease to assert its individual power. Lord Lytton, in "Night and Morning," pronounced it a strange thing that that very form which we prized so charily, for which we prayed the winds to be gentle, which we lapped from the cold in our arms, from whose footstep we would have removed a stone, should be suddenly thrust out of sight! And this same composition of bone and muscle that was yesterday so strong,—which men respected and women loved, and children clung to,—to-day so lamentably powerless, unable to defend or protect those who lay nearest to its heart! A breath from its lips making all that mighty difference between what it was and what it is.

Daniel Barnard had nothing of the eccentricity of genius. The secret of his success was work. The lesson of his life was diligence, charity and consistency. The machinery of his make-up was held in even motion by the balance-wheel of sound principle and well-defined convictions of duty. The modest estate in worldly goods that he left, and the universal grief that overshadowed the whole state at his sudden

death are touching testimonials to his honesty and self-sacrifice. There is no higher, no better, no grander type of manhood on earth than an able, cultured, upright, trustworthy lawyer. Such was Daniel Barnard. No citizen can be so helpful and comforting to his fellow citizens, such a solace and support to his brother men in trouble as a clear-headed, calm-souled, sympathetic and experienced counsellor. Such was Daniel Barnard.

He rounded a splendid succession as attorney-general, that comprises the names of Mason W. Tappan, of Lewis W. Clark, of William C. Clarke, of the Sullivans, of John S. Wells, of Samuel Bell, of Jeremiah Mason, and others, a single file of forensic giants, reaching down to us, men ponderous in intellect, replete in wisdom, and unswerving in rectitude.

Daniel Barnard in his last official position especially entitled himself to our respect and regard. The duties of the office are important, difficult and delicate. They call for learning and ability, prudence and much mildness and firmness. All these qualities he had. There was in him no semblance of the hardheartedness of an unfeeling public prosecutor. It was obvious that his fidelity to the state and his obligations to the innocent made him demand punishment for the guilty. He was sure to discover all the weak points in the case of a respondent, sure to bring out the full facts against him, but he was evidently pleased if the accused could show himself innocent. He was not vain of convictions; he took no pride in pursuing wrong-doers, except as far as it became his mission and duty. Nobody dared to offer him a bribe: he was above the suggestion of corruption. On his hands was no smell of pitch. Insinuation, that foul bird of disparagement, never brooded over his good name. He stood erect and unsuspected: his honesty was never ques-

tioned. He was never a persecutor, and as a public prosecutor he seemed a just father to the state rather than a government officer. As we look back over his career now, we see what nice discernment, what fine discretion, he exercised as to what suits should be brought and what should not. We see with what sagacity and ability, and satisfaction to the people and credit to himself he conducted the responsible duties of an office that requires uncommon qualifications. We begin to realize the magnitude of our loss. In the language of Mr. Webster in reference to Chief-Justice Jay, when the spotless ermine of the judicial robe fell on him it touched nothing less spotless than itself.

We remember how kind he was to young men, how courteous and polite and popular he was to everybody on every occasion everywhere. It was from the conflict of elements that comes forth the desirable, and I have sometimes thought that the intellectual battles that men wage at the bar serve to develop their best, as well as to uncover their worst qualities. There was nothing sinister about Daniel Barnard. I do not remember ever having seen him lose his temper. When the most important cases were at stake, when everything seemed pivoted as it were upon a single phase of a trial, he never lost his self control. He cherished no enmities. He forgot when he forgave. He despised meanness and hated criminality, but he pitied weakness and never ridiculed ignorance. He was not a talebearer of others' failings and prated not of their misfortunes. He dealt in no scandals. He never thought to build himself up by berating others, and it is very deplorable indeed that so estimable and exemplary a man and officer has left us forever. He was, take it all in all, a charming gentleman. He died as he had wished to go, with the harness on. He died with his books open; he died with his papers around him. Suddenly he stepped out of

busy life where he was a most important factor, and left unfinished and unguarded various interests that had learned to look up to him as invaluable and indispensable. He left us before any of his faculties had begun to fail, while yet he was in the prime and glory of his existence. He went with characteristic quickness and promptness, without any lingering sickness. Just as his hair was silvered over, even before the noonday splendor of his capability had begun to dim, he was called away. "When the sun fades away at nightfall we behold the harmonious fulfillment of nature's law; but when darkness comes at noonday we are struck with awe at the mysteries of the universe. When eternity beckons to one whose labors are ended here, and who walks wearily under the burden of years, we see him sink down to his rest with resignation to the decrees as they are written; but when death claims the great and strong, in all their pride of power and place, we break forth in grief, and question the ways of Heaven and earth, which are past finding out."

Charles Sumner said when the martyred Lincoln died, "In the universe of God there are no accidents; from the fall of a sparrow to the fall of an empire or the sweep of a planet, all is according to Divine Providence whose laws are everlasting."

The air has been thick with death for many weeks.

"His flying shafts

Strike down to-day the bravest in the land;

And here and there, how suddenly he wafts

His fatal arrows. Nor can long withstand

The mailed warrior, or the statesman manned,

Against him. But why should he hasten on

* * * to strike one down

Just in the zenith of his strength and glory of renown?"

But we are told that death cannot long lead the procession that has passed over the silent river, for the tramp of innu-

merable footsteps echo far beyond his sphere. 'Tis said that he knows not more than we their distant goal. But God who made them knows and will not leave them on their toilsome and doubtful march, either to wander in infinite uncertainty, or to perish by the way.

We have felt with Nathaniel Hawthorne that it is very singular how the fact of a man's death seems often to give people a better idea of his character, whether for good or evil, than they have ever possessed while he was living and acting among them. Death is so genuine a fact that it excludes falsehood or portrays its emptiness. It is a touchstone that proves the gold and dishonors the baser metal.

No man has been held in higher respect and esteem than Daniel Barnard by his fellow men, and now that he is dead his character stands out in bold relief, and we appreciate and prize his excellence as we never did before. He was not only the friend of his professional brethren and of other prominent men, but of the common people: the humblest and the poorest counted him as a benefactor, and felt glad to press his hand in recognition of his kindly salutation and sympathy, and many were the noiseless charities that he dispensed.

“God give us men: a time like this demands
Strong minds, great hearts, true faith, and ready hands:

Men whom the lust of office does not kill;

Men whom the spoils of office cannot buy;

Men who have honor: men who will not lie:

* * * * *

Tall men, sun crowned, who live above the fog
In public duty and in private thinking.”

Daniel Barnard never felt himself above anybody. He was not to be flattered, wheedled, or intimidated, but he was pleased with appreciation, and loved to meet the approval of his fellow citizens. There was nothing of pomp or vanity about

him. He did up a good, clean life's work, and left a record that is the best encomium that could be pronounced. He had an ingenious, intuitive mind. It had been trained by long experience in the ramifications of a broad practice that covered in its extensive scope almost every trade and profession, and he was naturally alert, naturally quick of discernment, with not a particle of the inertia of laziness or indisposition in his constitution. He was well informed; fully abreast of the times on all subjects. He was vivacious, energetic, untiring, and yet tolerant, patient and uncomplaining. He never gave up until the end came. He loved fun; saw the ridiculous side, could tell a good story, and was a good listener. His agreeable personage will be missed at the railway stations and the hotels; his welcome face will be seen no more on the cars; he will be missed in our courts, in our social gatherings, at our political conventions, wherever men meet to confer and do congregate for legitimate purposes and to cope with the momentous concerns of life, there Daniel Barnard will be sorely missed. His advice was always good; he saw at a glance the pivotal point upon which a question turned. He acquired the faculty of lucid statement and cogent argument. He gave to every case and to every critical phase of it his best, most careful consideration and research. His fortunate temperament allowed him to carry on his mind a great burden of business, public and private, that would have overwhelmed an ordinary attorney, or one upon whom it came suddenly. There seemed to be before him many years of usefulness and progress, years of comfort and enjoyment, but in the lottery of death there are no blanks, and suddenly, unexpectedly to him as to us all, he solved the greatest problem of life. His virtues were worthy of emulation. He had great sagacity and tact, swift perceptions, and was ready to decide and to act. As Attorney-General,

he had no pet policy to carry out, except the policy of discretion and right. A friend of the author of the emancipation proclamation once joked him about the procuring of an ordinary lawyer to preside over a great nation through one of the most terrible civil rebellions that ever arose. Mr. Lincoln replied with the greatest gravity: "I don't believe any great man with a policy could have saved the country: if I have contributed to that end it has been because I have attended to the duties of each day with the hope that when to-morrow came I should be equal to its duties also."

Daniel Barnard had to do with the organization of the Unitarian church in Franklin, and remained one of its most earnest and generous supporters. He was modest always in his own opinions, and did not attempt to impress his religious views upon others. He believed more especially in improving, enriching and ennobling life and character here, in making men worth the saving, and his religion was the practical, working, every-day kind that men can carry into their business and pleasure,—introduce into their homes, their offices and stores and shops, and into their work, their politics, and everywhere else,—and which conduces to make them better and nobler and happier.

For forty years he lived in Franklin, and so closely was he identified and allied with its manufacturing, its banking, its various interests, educational, social, moral, political and other, that when he died it seemed as though the keystone of the arch was gone, and certainly a central pillar of the town itself had fallen. Forty years! And no man lives to say that Daniel Barnard wronged him, and no man lives to say that he ever wittingly did injustice to anybody, or looked with contempt upon the humblest of God's creatures. O, young men, what a record was that! What an encomium on earth! What a passport to heaven.

He was born sixty-five years ago in the town of Orange. His youth was spent in hard work on a not over-productive farm where opportunities for education were very meagre. From the outset to the end he was eminently what is styled a self-made man. He worked his way, paid his way, earned and deserved the victory that he won over adverse circumstances. He taught district school. Young and inexperienced as he was, such was the trust and confidence in which he was held in that little, sparsely settled town of Orange, that he was sent four times to represent its people in our state legislature, where his prepossessing personality, his bright insight to men and things was recognized, and, unassuming though he was, he then attained a high position in public trust, respect and admiration that he never lost, and the luster of which was never tarnished. He committed himself to that party that stood for the freedom of the soil, and later for the freedom of the slave. In 1851 he moved to Franklin, and entered the law office of Nesmith & Pike, and upon his admission to the bar became a partner with Mr. Pike, Judge Nesmith retiring from the firm, leaving a large and lucrative practice, which had been established through remarkable industry and aptitude. Nine years later Mr. Barnard withdrew from the partnership, and began the practice of the law by himself, and for nearly thirty years continued in business, overrun with clientage, toiling day and night some of the time to meet the urgent demands of a most exacting profession. After his son William's admission to the bar he became a partner with his father, a business arrangement that was very agreeable to both, and promised to relieve the elder Barnard of much responsibility, but the sad death of the son intervened, and left the father to struggle on alone. His practice comprised not only the state cases, but a large civil docket in Merrimack county and important causes in nearly

every county in the state, and especially in Belknap, Grafton and Coos. In 1860 and 1862 he represented Franklin in the legislature, and was subsequently, in 1865 and 1866, elected to the state senate, presiding over that body in the latter year. In 1870 and 1871, he was a member of the Governor's council. In 1872 he was a delegate to the Republican National convention at Philadelphia.

He was solicitor of Merrimack county from 1867 until he declined the position, in 1872. He again declined the position in 1877. He was an earnest supporter of the homestead-exemption law, in 1850. He introduced the resolution in the House which first gave the members a daily newspaper. As a member of the senate he took an interest in the amendment of the Federal Constitution prohibiting slavery, making an able and effective argument in its support. He was appointed Attorney-General of the state in 1887, which position he held with great honor at the time of his death. Any position that Daniel Barnard might have held would have been filled efficiently and well, and to public satisfaction. His appointment to the Attorney-Generalship did not come by importunity and solicitation, but by the acclaim of the whole bar, and the confirmation of popular sentiment. In 1867, Dartmouth college honored herself in honoring him with the degree of Master of Arts.

His life is worthy of a volume. I cannot crowd a satisfactory sketch of it into the half-hour allotted to me. He was not a professional philanthropist, and yet we counted him one of the guardians of the Granite state, such was his interest in us all personally, and in our welfare as a commonwealth, and such was his considerable part in the history of our progress during the last half-century.

He died on the thirty-sixth anniversary of the birth of his eldest son, and at the same hour and minute of the day that

his son died. As scholar, statesman, lawyer, attorney-general he had to do with great concerns, important affairs, stirring events, public tribunals, but it was as husband and father that he appeared to the most attractive advantage. He shone the brightest in what has been designated "the small sweet courtesies of life." No man ever loved and was beloved more devotedly. His early disadvantages led him the more to appreciate education, and he made great sacrifices that his children might have the advantages of good schooling. His home was as sunshiny as his own disposition. Quoted and honored as he was, it was in the family circle that his wit and humor sparkled the most, it was at the hearthstone that he was the best appreciated; but now the cloud is over his house. Yet, if death is sunrise, then it is morning with him; if to die is gain, he has won his greatest conquest.

He has gone. The great, bustling, pulsating world will go on without him. Railway and other corporations will organize, lease and contract with one another; litigation will arise; legislatures will convene; but we shall see him no more. No more will he be anxious for others, no more will he bear their burdens and fight their battles. Nothing disturbs him now. Men will strive and struggle, reach and fall as they did before, but all must share his fate. Our paths, however widely they may seem to diverge, lead only to the grave. We know not on whose cold, dead, pathetic face we may next be called to look. We know not when our own hour cometh, but the lesson of his life, the example of his success, the pleasure of having had his acquaintance and companionship, the sum of his usefulness, the sweetness of his memory, are such that we thank God for having given us Daniel Barnard.

"More life, more life! 'Tis this we crave.
More life, more life! When this we have—
'Tis this that we call death."

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